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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,414	06/26/2003	Ralph D'Agosta	02811-P0005C	5674
24126	7590	11/01/2006	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC			LEJA, RONALD W	
986 BEDFORD STREET			ART UNIT	
STAMFORD, CT 06905-5619			PAPER NUMBER	

2836  
DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/606,414

Applicant(s)

RALPH D'AGOSTA

Examiner

Ronald W. Leja

Art Unit

2836

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

The Finality of the Office Action of 5/26/2006 has been withdrawn in view of the Appeal Brief of 8/16/2006.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Rodriguez (2,861,170).

Rodriguez discloses a portable water heating system, comprising a housing (15), a water inlet (29) disposed on the outside of the housing, a first hose nipple (29b) adapted to connect a water supply (23), a lining adapted to protect the inside of the housing from corrosion (Col. 2, lines 4-5), a heating element (17), a water outlet disposed on the outside of the housing and a second hose nipple (29d) attached to the water outlet.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Winter et al. (6,628,894).

Claim 7 adds a mounting element interface for securing the system to a mounting element when not in use. Winter et al. teach a portable water heating

system wherein brackets allow for wall mounting. Therefore, it is the opinion of the Examiner, that since the device is portable, and teaches brackets for wall mounting, it would have been obvious to utilize a mounting element interface for storage of the portable device when not in use, such as on a wall, thereby offering a storage place, for example, in a consumer's garage and wherein the device would not be subject to being kicked around or bumped by other items stored on the floor. This would lead to a longer lasting device.

Claims 2 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Alston et al. (4,947,025).

Rodriguez discloses use of a thermostat (66), thermostat but actually relies upon the thermostat as a high temperature shutoff element, which shuts-off the heating circuit (30) when the temperature rises to a predetermined point. Alston et al. teach the use of thermostatic control (44) for controlling the current applied to the heating element (30). It would have been obvious to incorporate the teachings of Alston et al. as a means to offer the ability to adjust the temperature of the water in accordance with the desires of the consumer, for the changing seasons of the weather and as a means to increase design application. See Figs. 1, 2 and Col. 2, line 62 thru Col. 3, line 42. Rodriguez discloses that the device is supported by pipe (23) and does not appear to disclose the use of wheels, handle or mounting interface. However, Alston et al. teach the use of wheels (Claim 4) and handle (Claims 5, 6). It would have been obvious to incorporate the teachings of Alston et al. as a means to offer ease in moving the portable water heater from location to location.

Claims 3, 8 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Alston et al. and further in view of Winter et al. (6,628,894).

Claims 3 and 12 are drawn to the use of ground fault protection and high temperature shut-off. Rodriguez discloses use of a thermostat (66), but actually relies upon the thermostat as a high temperature shutoff element, which shuts-off the heating circuit (30) when the temperature rises to a predetermined point. Alston et al. teach the use of thermostatic control, *supra*. It would have been obvious to incorporate the teachings of Alston et al. as a means to offer the ability to adjust the temperature of the water in accordance with the desires of the consumer, for the changing seasons of the weather and as a means to increase design application. See Figs 1, 2 and Col. 2, line 62 thru Col. 3, line 42. Winter et al. teach the use of ground fault protection. See Column 3, lines 21-30, wherein it is suggested that ground fault protection is considered to be excellent safety practice. Ground fault protection is known in the art to be provided in those environments (i.e. bathrooms) wherein water usage and exposure by the consumer along with electrical devices are in close proximity. However, not all locations wherein a portable electrical device is utilized offer GFCI outlets. Therefore, it would have been obvious to incorporate the teachings of Winter et al. as a means to enhance safety to the consumer and increasing applications to more hostile environments, while ensuring safety for the user, by incorporating GFCI technology within the portable device. Ground fault circuit breakers (GFCIs) are, in the barest sense, composed of a first ground fault device, the detector and a second ground fault device, the interrupter and the interrupter would obviously be placed near the incoming source of power, so as to isolated the incoming

power from the remaining portable device, thereby further increasing safety to a consumer. Alston et al. teach the use of wheels (CL. 14) and use of a handle (Cls.15 & 16), see Figure 1. It would have been obvious to include these teachings as a means to help move the portable device of Rodriguez around to other locations, especially when the tank was full of water. This would appeal to the consumer and increase sales.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Nelson (4,974,551) and Twigg (5,853,553).


These set of claims are drawn to use of a double-walled housing and use of an anode. Nelson teaches the use of double-walls in a water heating system (see Fig. 8 and Col. 13, lines 34 et seq.). It would have been obvious to incorporate the teachings of Nelson as a means to offer more durability to the design by protection to the interior tank, but also to offer a means to help keep the water in the tank warm longer by insulating the tank from the outside environment, thereby increasing efficiency of the system. Twigg teaches that it is known to use an anode within a hot water tank in order to prevent corrosion. Therefore, it would have been obvious to incorporate the teachings of Twigg as a means to help prevent corrosion of the components coming in contact with the water, thereby increasing the longevity of the overall device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald W. Leja whose telephone number is (571)272-2053. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on (571)272-2800. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Ronald W. Leja  
Primary Examiner  
Art Unit 2836



rwl  
October 29, 2006